

Notice of Allowability

Application No.

10/041,635

Examiner

David M. Naff

Applicant(s)

MOORE ET AL.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 5/26/04.
2. ☒ The allowed claim(s) is/are 32 and 36-45.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 6/9/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

David M. Naff
Primary Examiner
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EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required in order to make an examiner's amendment which places this application in condition for allowance. During a telephone conversation conducted on 6/9/04, Applicants requested an extension of time for one MONTH(S) and authorized the Director to charge Deposit Account No. 11-1110 the required fee of \$110.00 (large entity) for this extension and authorized the following examiner's amendment. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Applicants' representative, Bernard G. Pike, authorized the following amendments by telephone on 6/9/04.

In the abstract,

last line, after the period insert --- In an embodiment, the fermentation broth is a whole broth containing insolubles including all microbial biomass present after fermentation. The insolubles are not separated until the organic acid is recovered. Prior to recovery, the organic acid may be esterified to the corresponding ester, and the insolubles are removed to recover the ester. ---.

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In the claims,

Claim 32,

line 3, cancel "to produce a fermentation broth, wherein the", and insert --- with an organic acid producing microorganism to produce a fermentation broth containing an organic acid and insolubles comprising all microbial biomass resulting from said fermentation; ---;

line 4, cancel the line;

line 5, cancel "an organic acid-containing";

line 6, before "dried" insert --- a ---, after "product" insert --- containing said organic acid and said insolubles comprising said microbial biomass ---, and cancel "said", second occurrence, and insert --- any of said insolubles comprising said

---;

line 7, cancel "organic acid-containing";

line 8, cancel "organic acid-containing", and cancel "of" and insert --- from ---;

line 9, cancel "an" and insert --- a strong ---, and after "acid", second occurrence, insert --- in a solution containing said insolubles ---;

line 10, after "corresponding" insert --- organic acid ---, and after "ester" insert --- in a solution containing said insolubles ---;

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line 11, before "insolubles" insert --- said ---, after "insolubles" insert --- comprising said microbial biomass ---, and cancel "an" and insert --- said ---;

line 12, cancel ", wherein the insolubles include the microbial biomass".

Claim 38, line 1, cancel "reaction".

Claim 40, line 2, before "acid" insert --- strong ---, and cancel "added" and insert --- present ---.

Claim 41, line 2, before "acid", first occurrence, insert --
- strong ---.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 571-272-0920. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'D. M. Naff', with a long horizontal stroke extending to the right.

David M. Naff
Primary Examiner
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DMN
6/9/04